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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,431

03/30/2004

Alexei Kojenov

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10/02/2006

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EXAMINER

DAYE, CHELCIE L

ART UNIT

PAPER NUMBER

2161

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/814,431

Applicant(s)

KOJENOV ET AL.

Examiner

Chelcie Daye

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/30/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is issued in response to Application filed March 30, 2004.
2. Claims 1-36 are pending.

Information Disclosure Statement

3. The information disclosure statement filed 3/30/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 1,2,and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim1 recites the limitation "the source volume" in the first line of the claim, examiner is unsure as to what "source volume" applicant is referring to, since there is no prior mention. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites "wherein the file is stored at a second client station", however neither the specification nor the figures provide ample support as to why the file is/has

to be stored on a second client station. In order to further prosecution, examiner will give the claim limitation its broadest reasonable interpretation.

Claim 9 recites the limitation "the source raw storage device" in the first line of the claim, examiner is unsure as to what "source raw storage device" applicant is referring to, since there is no prior mention of such a device within claim 1 from which it depends from. Therefore, there is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-9,11,13-21,23,25-33,and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Maurer (US Patent Application No. 20030065780) filed September 27, 2002.**

Regarding Claims 1,13,and 25, Maurer discloses a data management method, comprising:

a data storage device having a database comprising a plurality of objects
(Abstract, Maurer);

a digital data processing apparatus coupled to the storage device, wherein
the digital data processing apparatus is programmed to perform a data
management method ([0040], Maurer), said method comprising:

backing up contents of a source device at a first client station as at least
one object of a database stored in a data storage subsystem wherein the at least
one object represents an image of the contents of the source device ([0060-
0061], Maurer)¹;

using the at least one object, restoring the contents of the source device
from the at least one object to a file in a file system stored on a storage device
([0109-0110], Maurer), said file system comprising a plurality of files and an
address table identifying the location of each file on said storage device ([0083-
0085], Maurer); and

copying the restored contents of the source volume from the file to a target
device so that the target device contains the contents of the source device
([0112], Maurer).

Regarding Claims 2, 14, and 26, Maurer discloses the method wherein the
file is stored on storage media at a second client station ([0108-0109], Maurer).

Regarding Claims 3,15,and 27, Maurer discloses the method wherein the target device contains the complete contents of the source device ([0074], lines 7-11, Maurer).

Regarding Claims 4,16,and 28, Maurer discloses the method wherein the contents of the source device contained by the target device includes files and a file directory of the source device ([0053], lines 13-16 and [0079], Maurer).

Regarding Claims 5,17,and 29, Maurer discloses the method wherein the data storage subsystem includes a server coupled to the first client station by a network (Fig.1; [0042], Maurer).

Regarding Claims 6,18,and 30, Maurer discloses the method further comprising, using the at least one object, restoring the contents of the source device from the at least one object to a target device so that the target device contains the contents of the source device ([0078-0080, Maurer).

Regarding Claims 7,19,and 31, Maurer discloses the method wherein the source device is a raw storage device ([0120], Maurer).

¹ Examiner Notes: Host 113a corresponds to the source device, also throughout the reference the term source computer system is also used to reference host 113a for the source device.

Regarding Claims 8,20,and 32, Maurer discloses the method wherein the source raw storage device is a logical volume of at least one magnetic disk drive ([0139], Maurer).

Regarding Claims 9,21,and 33, Maurer discloses the method wherein the source raw storage device is a partition of a magnetic disk drive ([0053], Maurer).

Regarding Claims 11,23,and 35, Maurer discloses the method wherein said file is a flat file ([0074], Maurer).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 10,12,22,24,34,and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer (US Patent Application No. 20030065780) filed September 27, 2002, in view of "Logical vs. Physical File System Backup", By: Hutchinson, Published: 1999; referred to hereinafter as 'Hutchinson'.**

Regarding Claims 10,22,and 34, Maurer discloses the method further comprising mounting the source device ([0079], Maurer). However, Maurer is

silent with respect to the source device being a read only device wherein write operations to said source device are prevented during said backing up of said source device. On the other hand, Hutchinson discloses the source device being a read only device wherein write operations to said source device are prevented during said backing up of said source device (pg.3, column 2, 1st full paragraph, Hutchinson). Maurer and Hutchinson are analogous art because they are from the same field of endeavor of system backup/restore. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Hutchinson's teachings into the Maurer system. A skilled artisan would have been motivated to combine as suggested by Hutchinson at pg. 2, column 2, in order to provide system history and increase resilience to disasters, which means that it is important that the format used to store data must be archival in nature. As a result, maximizing the speed for data backup and minimizing the resources that are used in performing the backup.

Regarding Claims 12,24,and 36, the combination of Maurer in view of Hutchinson, disclose the method wherein said copying uses the UNIX dd command (pg.3, 2nd full paragraph, lines 5-9, Hutchinson).

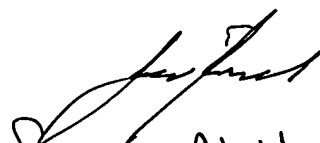
Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chelcie Daye whose telephone number is 571-272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye
Patent Examiner
Technology Center 2100
September 20, 2006


Sana Al-Hashem